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Book Review

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Book Reviews

*Reviewed by Howard L. Oleck**

ANESTHESIA AND THE LAW, by Carl E. Wasmuth; Published by C. C. Thomas, Springfield, Ill.; XVI and 105 pp. (1961).

The chief area of medical practice, in terms of volume of possible medicolegal problems, is that of anesthesia. This is because practically all surgery involves use of anesthesia of some kind, not to mention obstetrics, dentistry, psychiatry, and many other aspects of the healing arts. Yet anesthesiology itself only recently has come to the fore as one of the major fields of medical specialization.

To the layman the subject of anesthesia is one full of mystery and some fear. To him the anesthesiologist is a worker of wonders, who sends people into trances that resemble deathly suspension of life, and recalls them at will. He interdicts that great enemy—pain. He makes possible the surgery that saves life.

Yet the anesthesiologist also is to be feared. His chemistry is a deadly dangerous instrument. Every time he employs his drugs or gases he tampers with the natural functions and processes of the living organism. A very little error on his part can result in dreadful danger to the patient.

With all respect, then, for the value of the art-science of anesthesiology, the law is entitled to demand a high degree of training, skill, and care of its practitioners. The day is past when the law looked with indifference at the practice of this delicate art by half-trained nurses.

Sometimes the law can be very harshly demanding indeed, in requiring high standards of skill and care. In California, for example, the courts have been so demanding that they practically have stopped the use of spinal anesthesia as a regular weapon in the arsenal of anesthesiology. This, while the use of spinal anesthesia has increased in other parts of the United States. It is disturbing, to an objective observer, to see lawyers dictating to physicians what medical tools and procedures they shall employ.

The physician, on the other hand, is bewildered by what seem to him to be harsh laws and hostile courts and lawyers.

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Where once patients stood in unquestioning awe of him, now they question, compare and criticize. It is small consolation to him that this has resulted from popularization of medical knowledge, and from the disappearance of the family doctor. No matter how it came to be, the medical malpractice lawsuit has become the *bete noir* of the law, from the physician's point of view.

In truth most of the fear and uncertainty of the physician *vis-a-vis* the law is groundless. Courts and lawyers are not hostile to physicians. But neither do they favor unbridled privilege for physicians. Most of the doctors' fears can be dispelled by a clear and straightforward explanation of what the law expects and demands from doctors. Engineers, for example, do not fear the law, since they know what it expects of them. The same is true of the members of other professions. Explanation of the law *to the physicians* will go far towards curing and preventing their doubts and fears, and towards stemming the tide of malpractice suits.

In the field of anesthesiology, such a clear explanation *to the physician* has been provided by Dr. Carl E. Wasmuth. This succinct, brilliantly clear statement of the law of anesthesiology is almost equally valuable to the lawyer as a compact summary of what law governs anesthesia and anesthesiology.

Dr. Wasmuth is peculiarly fitted for this difficult task of explaining one technical discipline to another. Himself a noted anesthesiologist at the famed Cleveland Clinic, he also is a member of the Ohio Bar, and an associate professor at Cleveland-Marshall Law School. He is that rare combination of doctor-lawyer-teacher-writer who is well qualified in each of these specialties.

Anesthesia and the Law is a small book, as law books go. Its compact, brief presentation of a large subject is a virtue, however. It will be *read* by physicians, rather than merely filed as a reference work (which it also is). It is eminently *readable*, despite the technical nature of its subject. There is far more value in a clear and lucid exposition than in a vast tome full of obscure and complicated technicalities, in this case.

The *foreword*, by Dr. Stanley O. Hoerr, Chairman of the Division of Surgery of Cleveland Clinic, presents the subject and the author. The *preface*, by Dr. Robin Anderson, sets the stage by stating the problem that the book essays to solve—the proper relation of anesthesiologist—surgeon—hospital—patient—and the law.

The analysis of the work breaks down the subject into its chief categories: consent, negligence, agency, and liability. Then it treats the chief types of anesthesia problems: endotracheal anesthesia, spinal anesthesia, and cardiac arrest. It concludes with discussion of hospital liability, the physician-patient privilege, and medical records and the hearsay rule. The index is quite adequate for the size of the book.

Physically the book is very well printed, in honorably readable type, on good glossy stock, well bound in buckram. Its jacket describes it as one of the C. C. Thomas Company's *American Lecture Series*. The editor is Dr. John Adriani, of the Department of Anesthesiology of Charity Hospital of New Orleans.

An unfortunate typographical fault jars the reader on the first page of the text. The last sentence on the page is broken and left incomplete. It is not completed on the next page. One wonders what happened to the rest of the sentence. A few other typographical errors elsewhere are annoying as well.

Another flaw in the work (from the lawyer's point of view) is the paucity of citations. Yet, it must be remembered that the book was written primarily for physicians, who would have small interest in legal citations. But the fact that some citations are complete and some incomplete is harder to overlook. This defect could easily have been cured by the publisher by the employment of a legal editor. It is understandable that a busy doctor-lawyer might leave such mechanical details to the publisher's editorial staff.

Some of the material in the work consists of revisions of articles written by Wasmuth for various medical and law journals. Among the credits in this connection, are *Anesthesia and Analgesia*, *Cleveland-Marshall Law Review*, *Journal of the American Medical Association*, and *Annals of Internal Medicine*. One chapter (on medical records) was contributed by Robert L. Green of the Memphis, Tenn. Bar.

The chief quality of the work is the clarity and understandability of its explanation of the legal aspects of specific medical procedures. This quality will make it attractive and helpful to physicians. It makes it invaluable to a lawyer who is handling a case involving anesthesia.